



THE UNITED STATES  
CONFERENCE OF MAYORS



## Recommendations for Statutory Changes to the CDBG and HOME Programs

### CDBG Program

#### **Add New Construction of Housing as an Eligible Program Activity**

**Issue: 42 U.S.C. 5305 et seq. – Activities Eligible for Assistance.** Currently, new construction of housing is not allowable under the CDBG program statute. The regulations allow for Community Based Development Organizations to carry out new construction of housing as part of a neighborhood revitalization, community economic development or energy conservation project. This limits the program's flexibility to meet an urgent need, principally new construction of affordable rental housing. In a recent CDBG Coalition survey of CDBG grantees, affordable rental housing was listed as the *number one unmet community development need* by the local government survey respondents.

**Recommendation:** Add new construction of housing as an eligible activity in the CDBG program statute. Allow the grantee, other public agency, or qualified for-profit or non-profit entity (to be defined in the program regulations) to carry out new construction activities.

#### **Designate Fair Housing as an Eligible Stand Alone CDBG Activity**

**Issue: 42 U.S.C. 5305 et seq. – Activities Eligible for Assistance.** Fair Housing activities undertaken to support grantees' certifications to affirmatively further fair housing, are eligible under the CDBG program either as program administrative costs or as a public service activity. Because expenditures under these eligibility categories are capped at 20% for administrative costs and 15% for public service activities, grantees' ability and flexibility to fully fund fair housing in the face of competing administrative and public service objectives is substantially limited, thereby detracting from HUD's objective of strengthening fair housing through the elimination of impediments to fair housing choice.

**Recommendation:** Change the CDBG program statute to make fair housing a separate eligible activity. This modification would eliminate the limitations that grantees currently have when attempting to implement fair housing programs.

#### **Align the CDBG Labor Standards (Residential Rehab) Threshold with the HOME Program**

**Issue: 42 U.S.C. Section 5310 et seq. - Labor Standards.** Construction/rehabilitation work that is financed with federal funds must adhere to the Davis-Bacon Act. The Davis Bacon requirements are applicable to contracts for construction and rehabilitation that cover 8 or more units in CDBG and 12 or

more assisted units in the HOME program. Once Davis Bacon is triggered, it is applicable to the entire project. The Davis Bacon requirements increase project costs and are administratively burdensome for all contractors and grantees, but particularly small jurisdictions and contractors.

**Recommendation:** Amend the CDBG statute to align the labor standards for residential rehabilitation in CDBG (8 or more units) with the HOME program (12 or more assisted units).

## **Amend the CDBG Statute to Include a Provision That Sets the CDBG Non-Residential Construction Threshold at \$100,000**

**Issue: 42 U.S.C. Section 5310 et seq. - Labor Standards.** The Davis-Bacon Act was enacted in 1931 and requires contractors and subcontractors to pay no less than the prevailing wages to various classes of labor under construction contracts in excess of \$2,000. Contractors and subcontractors must submit certified payroll data on a weekly basis and maintain records. Because this threshold is so low virtually all CDBG non-residential construction contracts are subject to this requirement.

**Recommendation:** Amend the CDBG statute to include a provision that sets the Davis-Bacon Act threshold for CDBG-funded non-residential construction at \$100,000 (indexed for inflation annually). This change would allow smaller projects to proceed expeditiously and in a cost-effective manner, while keeping prevailing wage requirements in place for larger projects.

## **HOME Program**

### **Increase Program Admin from 10% to 15%**

**Issue: 42 U.S.C. 12742 et seq. – Administrative Costs.** The HOME statute caps administrative costs at 10% of a Participating Jurisdiction's (PJs) grant. The HOME program regulations are difficult, complex and require a lot of staff time to implement. The program administration allocation has not kept up with the staff time needed to administer the program such as the increased burden imposed by the long-term affordability monitoring requirements – rent, income, owner-occupancy and local codes. The number of units to be monitored continues to grow and the administrative cap needs to be increased to reflect this growth.

**Recommendation:** Change the HOME program statute to allow PJs to use up to 15% of their grant amount for administrative costs.

### **Eliminate the CHDO Set-Aside OR Make It Optional**

**Issue: 42 U.S.C. 12771 et seq. – Set-Aside for Community Housing Development Organizations.** A CHDO is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. PJs must set-aside a minimum of 15 percent of their HOME allocation for housing development activities in which qualified CHDOs are the owners, developers and/or sponsors of the housing. CHDOs must meet specific requirements such as staff capacity and board composition. PJs are having difficulty allocating the 15% set-aside because of a lack of qualified entities that meet the CHDO criteria. CHDO funds are recaptured by the Treasury if not allocated or used by the PJ resulting in a loss of valuable housing resources to communities.

**Recommendation:** Delete the CHDO set-aside requirement from the HOME statute OR change the statute to make it an optional activity.

### **Make Permanent the 24-Month Commitment Deadline Suspension**

Congress has included a provision in recent omnibus appropriations bills that eliminates the requirement that PJs commit HOME funds within 24 months (42 USC 12748). We urge Congress to make this change permanent.

### **Make the HOME Program Leasing Requirements More Flexible to Assist the Homeless**

**Issue: 42 U.S.C. 12755 et seq. – Tenant and Participant Protections – Lease.** Currently, the HOME program statute requires that a rental lease be between a tenant and owner of affordable housing.

**Recommendation:** Amend the HOME program statute to allow homeless services providers with a HUD leasing grant to lease a HOME unit and sublet it to a homeless family.